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File No. O. Press (E. Powers)/41.

Legal **DEPARTMENT**

A **BRANCH**

Subject:—

P 5F

Opinions under the

Indian Press Emergency Powers

Act, 1931.

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R.I.No. 912

27-1-41

Submitted,

The Ansar Press of Barsi, Sholapur dist. of which Mr. Amiruddin Miyasaheb Kazi is the declared keeper is under a security of Rs. 1,000 under sec. 3(3) of the Indian Press (Emergency Powers) Act, 1931, Mr. A.M. Kazi made a declaration ~~of Rs.~~ ~~Rs.~~ before the D.M. Poona, under secs.4 and 5 of the Press and Registration of Books Act, 1867 on 23rd July 1940 as keeper of Ansar Press situated at 312 Bhawani Peth, Poona City and as printer and Publisher of the weekly newspaper called "Ansar" printed and published at the said Press. The D.M. Poona ordered him to deposit securities of Rs. 1,000 each made under sec. 3(1) and 7(1) of the Indian Press (E.P.) Act 1931. Mr. Kazi did not deposit the securities and published in his paper "Ansar" that he has abandoned the idea of removing the press and paper to Poona. Mr. Kazi has n now again approached the D.M. Poona, stating that he is prepared to deposit the securities of Rs.1,000 only under both secs. 3(1) and 7(1) and for that purpose to get the security of Rs. 1,000 under sec. 3(3) transferred from Sholapur to Poona. It seems that the D. M., Poona, is willing to accept Rs. 1,000 as securities but he enquires of Govt. whether it has any objection to the security of Rs. 1,000 deposited by

Mr. Kazi under sec. 3(3) of the I.P.(E..) Act in respect of the Ansar Press at Barsi, Dist.Sholapur, being transferrd to the Poona Dist. on closing of the Press at Barsi and re-opening it at Poona. The H.D. (Poll) is not sure whether the security under sec. 3(3) would continue on the transfer of the press from Sholapur to Poona. The Asstt. Secy. H.D. states in his opinion that note dated 23-1-41 that the proper course would be to obtain a refund of the security of Rs 1,000 from the D.M. Sholapur under s. 13 of th.. I.P. (E.P.) Act and to deposit it when received with the D.M. Poona. The R.L.A. is requested to advise in the matter.

3. The view taken by the A.S., H.D. (Poll) in his note dated 23-1-41 at p.26 ante is correct. As the press is to be transferred from Sholapur to Poona, fresh declarations under both secs. 4 and 5 of the Press and Registration of Books Act, 1867 will be necessary as in the declaration the place where the printing press is situated and the place where the paper is printed and published are to be mentioned. The declaration made before the D.M., Sholapur in respect of the press at Barsi will not be valid in respect of t said press after it is transferred to Poona. The declaration will have to be made before the D.M., Poona. There is no provision in the Indian Press (E.P. Act, 1931 for transfer of press from one district to

Office of the Rl L. A

It is not clear exactly on what point the opinion of the Remembrancer of Legal Affairs is sought in this case (see Rule 104 of the Secretariat Instructions and Rule 8 of the Law Officers' Rules).

2. The view taken by the Assistant Secretary in his own note and approved by the Joint Secretary, Home Department (Political) at p. 26 ante is legally in order.

D.O. Idl- P.N.M. 22/2

Remembrancer of Legal Affairs.

U.O. to R.D. (Poll) No. 1717 dated the 28th February 1941.

Mr

Office of the R. L. A.

In this case Arzu had made a declaration under section 5 of the Press and Registration of Books Act, 1867 and was required to make a deposit by the Magistrate under section 7(1) of the Press (Emergency Powers) Act, 1931, within a certain time. As he failed to make the deposit within the requisite time, his declaration was by the operation of section 12(3) of the Act annulled and it was open to him to make a fresh declaration. Instead of making the fresh declaration himself, he set up his nominee Irsanul to make the declaration. This was, as is presumed, to all intents and purposes to evade payment of the deposit. As this was a bogus declaration and constituted a fraud upon the Act, it was, as held in the joint opinion of the Advocate General and the Remembrancer of Legal Affairs dated 2nd June 1932, open to the Magistrate to refuse to accept the declaration or require Irsanul to make a deposit under section 7(1) of the Act. The Magistrate neither refused to accept the declaration nor required Irsanul to make the deposit. The Magistrate's acceptance of declaration from Irsanul would be regarded as prima facie evidence of the fact that Irsanul is now the publisher of the Paper and consequently it is doubtful whether Arzu can be successfully prosecuted under section 11(2) of the Press (Emergency Powers) Act, 1931 (see paragraph 6 of the joint opinion). As pointed out in the joint opinion, the wording of the Act involves doubts and complexities and it would not be advisable to take the risk of prosecution in this case.

O.C. Jd/-P.N.M. 16/9

Remembrancer of Legal Affairs

U.R. to R.D. (Poll.) No. 204-p-confl dated the 17th September 194